

### Trade and investment agreements for sustainable development? Lessons from the EU's Economic Partnership Agreement with the Caribbean

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## Trade and Investment Agreements for Sustainable Development?

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Agreement with the Caribbean

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## **Trade and Investment Agreements for Sustainable Development?**

### **Lessons from the EU's Economic Partnership Agreement with the Caribbean**

The European Union's Economic Partnership Agreement (EPA) with fifteen Caribbean states came into effect in 2008. The deal was negotiated jointly by the members of the Caribbean Community (CARICOM: Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago) and the Dominican Republic, operating jointly as the Caribbean Forum of African, Caribbean and Pacific States (CARIFORUM).

The document's objective, as already laid out in the Cotonou Agreement of June 2000, extends far beyond the usual scope of a free trade agreement. The European Union's economic partnership agreements with African, Caribbean and Pacific states (ACP states) are explicitly intended to serve the ultimate objective of sustainable development, promote integration within the partner region, and link trade policy with development instruments. In other words, the European Union and the ACP states are seeking to establish a new class of agreement that moves beyond purely economic goals to address the sustainability factors that the international community has agreed to prioritise: social equilibrium and respect for the environment.

At the same time, the EPAs are supposed to introduce the principle of reciprocity into the European Union's trade relations with the ACP states and replace the EU's non-reciprocal trade preferences. In that context, the negotiations were sure to attract great attention. They were accompanied by intense discussions in the European Union's General Affairs and External Relations Council and in Caribbean and European civil society. Although the Caribbean partners are not economically weighty, the European Union does possess geopolitical interests in the Caribbean.

Intense efforts to produce a new approach contributing to sustainable development have created a free trade agreement that can justifiably claim model character. Asymmetrical liberalisation takes account of the unequal economic starting points of the partners, with the European Union granting the Caribbean states completely free market access. Sustainability and development are cross-cutting issues, as is re-

gional integration. All the components of the agreement are designed to contribute to these goals: monitoring mechanisms detect problems at an early stage, while safeguards and flexibilities permit the Caribbean states to respond using policy measures. The development instruments applied to support negotiations and implementation continue to generate opportunities to tackle capacity bottlenecks in the region and thus improve the prospects of realisation of the agreement's ambitious objectives. One important factor behind the success of the EPA was CARIFORUM's committed and visionary negotiating team, which conducted detailed analyses of the region's interests, defined regional policy goals on the basis of wide-ranging discussion processes in the participating countries, and represented these effectively in the talks with the European Union.

Yet even if the CARIFORUM EPA (C-EPA) possesses great potential, this alone cannot guarantee positive outcomes. For example, to date the Caribbean partners have enjoyed only limited success in realising additional export opportunities. The experience with the C-EPA underlines yet again the importance of circumstances, especially internal reforms, for success in foreign trade. The economic and financial crisis that broke out shortly after the agreement was concluded hit most Caribbean economies hard, and without a doubt overshadowed positive effects of the EPA. But internal problems also bear some responsibility for the failure of the CARIFORUM countries to open up substantial new export perspectives despite now enjoying free market access. Concretely, the most important would be expensive production inputs, high transaction costs, capacity problems in administration and the private sector (as well as civil society), and foot-dragging on regional integration. Furthermore, gaining entry to the highly complex and geographically distant European market, with its complex technical standards and administrative hurdles, is not easy at the best of times. The common European market eases access in certain respects for goods, but to a much lesser extent for services, which is where the Caribbean hopes to exploit particular advantages.

It remains to be seen whether the ambitious goals of the agreement can be achieved and the C-EPA as a whole becomes a success. The system for monitoring whether reforms and liberalisation contribute to sustainable development has yet to be finalised. And if problematic effects are detected, there still needs to be political will to use those instruments that do exist thoroughly enough to modify the implementation steps.

A number of conclusions for the future of the C-EPA – and more broadly for development-promoting free trade agreements and the role of aid for trade – can be derived from the negotiating process that produced the C-EPA, from the structure of the agreement, and from its application in practice. Elements of the C-EPA can be used as a model for trade agreements of developing countries, the European Union and other industrialised states. This applies in particular to asymmetrical trade liberalisation, preserving government policy space to safeguard social and ecological objectives, flexible safeguards, and introducing new issues with potential to boost sustainable development and regional integration. Backing the process with aid for trade is an aspect of great importance, both for covering adjustment costs and for initiating processes and sharing lessons and experience. Germany should build on its standing as a reliable partner of the CARIFORUM region, which stems not least from its use of bilateral development funds to support implementation of the EPA.

The research for this study included more than ninety interviews conducted in 2014 in Barbados, the Dominican Republic, Guyana, Trinidad and Tobago, St. Lucia, Germany and the European Commission. The interviewees included representatives of government, civil society, academia and the private sector, as well as national, regional and international institutions and organisations.

## The CARIFORUM-EU EPA: Securing Trade Preferences or Development through Value Creation?

The Caribbean partners are small countries, almost all of them islands. The largest, the Dominican Republic, has a population of 10.4 million and a GDP of \$ 61 billion; at the other end of the scale, St. Kitts and Nevis has just 54,190 inhabitants and a GDP of \$ 766 million.<sup>1</sup> Correspondingly, the CARIFORUM states account for just 0.3 percent of EU external trade, with a total volume of € 11.3 billion in 2013. In other words, these are not significant trading partners.<sup>2</sup> A number of EU member states possess direct investments, for example in the tourism, rum and beer sectors. The Caribbean states have not to date played a big role as economic partners for Germany. Trade statistics aside, this was also reflected in general lack of interest shown by German corporations and business organisations in dialogue with the Federal Ministry of Economic Cooperation and Development, which was responsible for the EPA talks.

The Caribbean is, however, important to the European Union in geopolitical terms, as the immediate neighbourhood also contains French, British and Dutch overseas countries and territories. In other words, the European Union itself is in a sense part of the Caribbean.<sup>3</sup> A specific article in the C-EPA (239) emphasises that cooperation in all areas of the agreement is intended to strengthen economic and social relations between the outermost regions of the European Union and the CARIFORUM member states. Many interviewed stakeholders in the Caribbean stressed the particular interest in cooperation with Caribbean territories of EU member states, which belong geographically to the region.

Aside from their geopolitical importance, the European Union values the Caribbean countries as reliable partners who take an active and constructive role within the ACP. Not least, the region is courted inter-

nationally for its large number of votes at the United Nations.

Under the UN classification the Caribbean states are middle-income countries, with the exception of Haiti, which is among the world's poorest. The service sector is of considerable significance for the Caribbean island states, representing more than 80 percent of GDP in certain cases. The international financial and economic crisis hit the Caribbean economies hard, as reflected in the negative trends of elementary economic data. Thus in 2008/09 inward FDI in the CARICOM states fell by 44 percent, remittances by 7 percent, and export volume by 43 percent, whereby export revenues were further reduced by a drop of 40 percent in international commodity prices. The number of foreign tourists declined by 6 percent.<sup>4</sup> These developments make it impossible to isolate the effects of the C-EPA, which came into effect at the same juncture. This is also acknowledged in the comprehensive review EPA implementation conducted in 2014 on behalf of the European Commission and the CARIFORUM secretariat, by a team led by Ranjit H. Singh. The present study draws heavily on the findings of that report, but also contains an analysis of the C-EPA itself and concentrates first and foremost on *evaluating* free trade agreements with respect to their (expected) impacts and stated objectives.

### Provisions on Trade in Goods in the C-EPA

The Economic Partnership Agreement places the European Union's trade relations with its former colonies on a new footing in line with WTO rules. The European Union completely opened its market from 1 January 2008, with transitional periods for rice (until 2009) and sugar (until 2015). This abolished numerous restrictions such as quotas and (sometimes seasonal) tariffs that still existed under the Lomé Conventions,

<sup>1</sup> World Bank, *Data by Country* (online), <http://data.worldbank.org/country> (accessed 27 May 2015).

<sup>2</sup> European Commission, Directorate General for Trade, *European Union, Trade in Goods with ACP-Caribbean Countries*, [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113476.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113476.pdf) (accessed 27 May 2015).

<sup>3</sup> Council of the European Union, *Council Conclusions on the Joint Caribbean-EU Partnership Strategy*, 3199th Foreign Affairs Council Meeting (Brussels, 19 November 2012).

<sup>4</sup> Preeya Mohan and Patrick Kent Watson, *The Impact of the Financial Crisis on CARICOM Countries* (St. Augustine, Trinidad and Tobago: Sir Arthur Lewis Institute for Social and Economic Studies, University of the West Indies), 4, <http://sta.uwi.edu/salises/pubs/documents/TheImpactofFinancialCrisis.pdf> (accessed 30 March 2015).



whose non-reciprocal trade preferences permitted the ACP states to export approximately 97 percent of their products to the European Union duty-free.<sup>5</sup> Although the European Union's exclusion of agricultural products was not protecting major market segments, this sector is of particular interest to developing countries. Potential Caribbean exports include dried bananas, confectionery, chocolate, fruit juice and pet food.<sup>6</sup>

Free trade agreements contain rules of origin designed to prevent goods from third countries being imported via one of the parties simply in order to exploit agreed preferences. In the C-EPA, the rules of origin have been loosened. In particular, the European Union agreed to abolish the so-called double transformation in the textile and clothing sector, meaning that garments produced using fabric from third countries (for example in Latin America) may now be imported duty-free into the European Union.<sup>7</sup> The rules of origin in the agriculture and fisheries sectors have also been relaxed. A review of the rules of origin had been planned within five years of the EPA coming into effect, but this has yet to occur. Doing so would also offer an opportunity to update and modernise the rules along the same lines that the European Union has already applied in the scope of the Generalised System of Preferences.<sup>8</sup> However, in toto, interview partners in the region believe that the simplification of rules of origin under the C-EPA is probably already making it easier for CARIFORUM countries to make use of trade preferences.

Free trade areas create advantages for participating economies – to the detriment of third countries. Yet under particular conditions they may still represent a benefit to the international trade system. WTO rules therefore prescribe reciprocal liberalisation of “substantially all the trade” within a “reasonable length of time”. While this grants developing countries a certain degree of flexibility, the EPA also requires Caribbean

partners to open their markets to the European Union to a certain extent.

Under the C-EPA the Caribbean opens its markets to a considerably smaller extent than the European Union and with longer transitional periods; in other words, the reciprocal liberalisation is strongly asymmetrical. The starting situation was that 51 percent of Caribbean imports from the European Union were tariff-free,<sup>9</sup> after five years 57 percent will be, after ten years 61.1 percent, after fifteen years 82.7 percent and after twenty-five years 86.9 percent (90.2 percent of tariff lines).<sup>10</sup> In particular, agricultural and fishery products are completely excluded from the market opening, along with certain industrial goods.<sup>11</sup> At the end of this unusually long transition period, CARIFORUM will have lifted tariff restrictions on more than 80 percent of its imports. That figure exceeds what Geneva insiders regard as the threshold for developing countries in a free trade area, namely an opening of 70 percent over a period of fifteen to twenty years.<sup>12</sup> One Caribbean negotiator described how a fixation on the necessary minimum liberalisation (especially in traditionally protectionist Caribbean countries) had led to serious statistical problems and ultimately to imprecision in defining sensitive products,<sup>13</sup> possibly because the discussion therefore concentrated more on statistical artefacts than real problems.

The C-EPA is also asymmetrical within the CARIFORUM region. A large part of the liberalisation is borne by the Dominican Republic,<sup>14</sup> 95 percent of whose imports from the European Union will be tariff-free.<sup>15</sup> The Dominican Republic has thus granted EU

5 Ursula Hönich, “Trade in Goods: Full Liberalization in the EU,” in *The CARIFORUM-EU Economic Partnership Agreement: A Practitioners' Analysis*, ed. Americo Beviglia Zampetti and Junior Lodge (Alphen aan den Rijn, 2011), 43–54 (44).

6 Sacha Silva, *Caribbean Trade Integration after the West Indian Commission: A Time of Inaction?* Final Draft, Prepared for Caribbean Exporters' Colloquium, Hilton Barbados Resort, Bridgetown, Barbados, 20 to 21 March 2013.

7 For a detailed description of the changes, see Stefano Inama, “Rules of Origin, Customs, and Trade Facilitation Issues”, in *The CARIFORUM-EU Economic Partnership Agreement*, ed. Beviglia Zampetti and Lodge (see note 5), 83–100.

8 Ibid., 100.

9 Ranjit H. Singh et al., *Monitoring the Implementation and Results of the CARIFORUM-EU EPA Agreement* (September 2014), [http://trade.ec.europa.eu/doclib/docs/2014/october/tradoc\\_152825.pdf](http://trade.ec.europa.eu/doclib/docs/2014/october/tradoc_152825.pdf) (accessed 23 April 2015).

10 European Commission, *Information Paper CARIFORUM-EU Economic Partnership Agreement: An Overview* (Brussels, July 2008).

11 Sacha Silva, “‘Mix Up Matrimony’: Crafting a Common Caribbean Market Access Offer”, in *The CARIFORUM-EU Economic Partnership Agreement*, ed. Beviglia Zampetti and Lodge (see note 5), 55–72 (67).

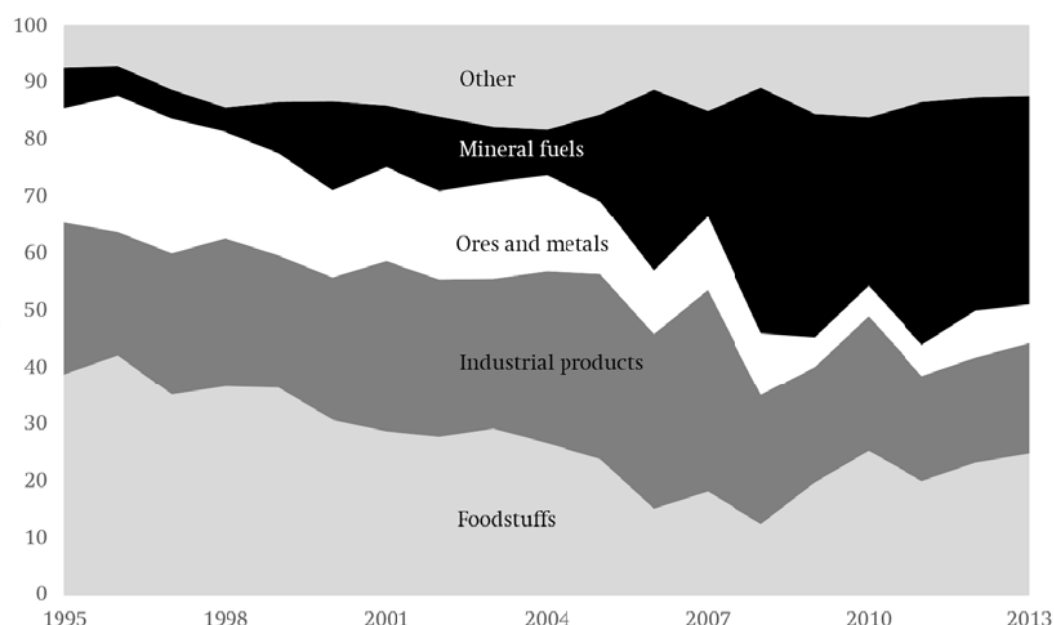
12 Sanoussi Bilal and Isabelle Ramdoo, *Options to Address Contentious Issues in EPA Negotiations – A Question of Political Will*, ECDPM Briefing Note 20 (Maastricht: European Centre for Development Policy Management, November 2010).

13 Silva, “‘Mix Up Matrimony’” (see note 11), 59.

14 On relations between the Dominican Republic and CARICOM see the section on regional integration, pp. 17ff.

15 Carl B. Greenidge, “Things Associated with EPA and its Predecessor”, speech to the Parliament of Guyana, 10 May 2012.

**Figure 1**  
**CARIFORUM exports to the EU by product group, 1995–2013**



Source: United Nations Conference on Trade and Development, *UNCTADstat* (online), <http://unctadstat.unctad.org/wds/ReportFolders/reportfolders.aspx> (accessed 27 January 2015).

exporters similarly sweeping market access to that granted to US businesses under the Dominican Republic–United States–Central America Free Trade Agreement. This permitted the CARICOM countries to make correspondingly smaller concessions under the C-EPA. Reservations on the part of smaller CARICOM states are the principal reason for market access granted to the European Union being often less comprehensive than that granted to the United States.<sup>16</sup> This construction also offers advantages for the Dominican Republic: Having negotiated the EPA jointly with CARICOM, it was able to secure EU trade preferences without conceding *full* parity with the United States. This was regarded as helpful given its differential sensitivities vis-à-vis the two trade blocs. At the same time, the C-EPA also improves market access between CARIFORUM states.<sup>17</sup>

## EU-CARIFORUM Trade Trends

The value of goods exported from the CARIFORUM region to the European Union increased from \$ 3.6 billion in 2005 to \$ 4.5 billion in 2013. But the structure has changed little over the past two decades (see Figure 1). The proportion of finished products has fluctuated, the share of mineral fuels increased, but there has been no significant diversifying shift towards manufactured goods. The European Union's market importance has declined, with its share of CARIFORUM exports falling from 19.5 percent (1995) to 14.4 percent by 2013, while the relevance of other regions increased.<sup>18</sup> The European Union's non-reciprocal trade preferences agreed in the Lomé Conventions were unable to stem that trend.<sup>19</sup> This shows that a country's

<sup>16</sup> Richard L. Bernal, "The Challenge of Sustainable Implementation", in *The CARIFORUM-EU Economic Partnership Agreement*, ed. Beviglia Zampetti and Lodge (see note 5), 239–60 (258).

<sup>17</sup> See the section on regional integration, pp. 17ff.

<sup>18</sup> Own calculations using data from United Nations Conference on Trade and Development (UNCTAD), *UNCTADstat*, <http://unctadstat.unctad.org/wds/ReportFolders/reportfolders.aspx> (accessed 27 January 2015).

<sup>19</sup> The European Union's significance as a source of development funding has also declined. In recent years Venezuela has been the most important donor in the Caribbean in the form of discounted oil supplies under the PetroCaribe programme; Economic Commission for Latin America and the Caribbean (ECLAC), *Development Paths in the Caribbean* (New York, December 2012), 36.

export development depends not only on the tariffs involved, but also on many other factors such as internal reforms and global economic influences. Services, on the other hand, have grown in importance.

Nor has any notable change in the export structure been seen since the C-EPA came into effect in 2008. According to the comprehensive analysis of the effects of the agreement by Singh and colleagues, no clear connection can be observed between market opening and the development of trade flows since 2008. Although it was possible to tie particular increases to the European Union's broader market opening, especially concerning the Dominican Republic (tobacco, clothing), export growth was mostly based on other factors. The global financial and economic crisis had a strongly negative influence, with the exception of increasing exports from Trinidad and Tobago (energy) and the Dominican Republic. In the case of the Dominican Republic it was above all the Dominican Republic–United States–Central America Free Trade Agreement that boosted growth and persuaded the government to create conditions designed to diversify exports to countries other than the United States.

As far as Caribbean imports from the European Union are concerned, the picture is similar. The strongest growth was in agricultural products, which were either already tariff-free or excluded from liberalisation. Imports into the Dominican Republic of certain products liberalised since 2008, which serve as inputs into manufacturing have also increased strongly on the basis of that country's positive economic growth. But for certain unliberalised products even higher growth has been recorded.<sup>20</sup> Similar trends are observed in the CARICOM countries, with the exception of Suriname, which maintains especially close ties with the Netherlands and imports more goods liberalised under the EPA. It thus transpires that on the import side, too, other factors than EPA-driven market opening play a considerably more important role: namely, the global economic crisis, national policies and major public contracts. Of course new market opportunities have been grasped in individual cases, either in the form of exports, or of inputs imported for domestic industrial production. Fears that EPA liberalisation could lead to a displacement of Caribbean production by European competitors have to date proved unfounded.

<sup>20</sup> Singh et al., *Monitoring* (see note 9), 76ff.

## Export Success Factors

The relatively small detectable effects of the C-EPA on European-Caribbean trade give rise to a fundamental question: what contribution can a free trade agreement actually make to increasing exports? Numerous other factors also influence competitiveness, and thus a country's export chances. With respect to the Caribbean, scientific reports and some of the interviewed stakeholders point to the particular importance of the following elements:

*Availability of elementary production inputs at attractive prices.* Inputs such as telecommunications and electricity are frequently very expensive, because long-term monopoly arrangements with regional providers in certain countries exclude competition and secure high monopoly rents for privileged operators (which are in turn often intimately bound up with the traditional elites). The neglect of agriculture observed in certain CARICOM states also sometimes leads to additional imports being required even where food producers would prefer to source local products. Some of those interviewed also pointed out that tariffs are sometimes imposed on production inputs that are practically unavailable in the region, making the production of certain products (such as sauces using imported spices) unnecessarily difficult and expensive. Several rum producers pointed out that transport and logistics costs made it important to be able to rely on local cane sugar production, where the available quantities had fallen. Some of the countries concerned suffer a lack of (also skilled) labour in agriculture, industry, and also the service sector. In this connection criticism was expressed that regional integration was not yet permitting significant labour mobility.

*High transport and transaction costs* on account of the small size of the islands and the modest production volumes involved. Export potential is also determined by logistics factors, where the question of whether a quantity of freight is large enough to load a container, or at least a pallet, may be decisive. Supplying local hotels also demands both a high standard of quality and the capacity to supply relatively large volumes reliably.

*Quality infrastructure – technical barriers to trade – sanitary and phytosanitary standards (SPS).* The national quality infrastructure institutions in many Caribbean countries are inadequately equipped – where they exist at all. Only three countries possess a national accreditation body: Jamaica, whose agency has already gained international recognition, and Trinidad and Tobago

and the Dominican Republic, whose accreditation bodies are still in the process of being set up. And that means that almost all export-related questions have to be taken to quality infrastructure institutions outside the region, adding to the costs of exporting. For example, in 2013 Trinidad and Tobago blocked imports of dairy products from Barbados on the grounds of inadequate observance of technical standards. At least as important as statutory standards are the private-sector codes enforced by major food retailers, which are as a rule even more exacting in terms of product and process.<sup>21</sup>

*Administrative trade barriers* include food labelling regulations, which differ not only between the European Union and the United States but also between different EU countries. Interviewees singled out the German recycling system for its extremely protectionist effects, with the returnable deposit system representing an additional obstacle to beverage exports. Difficulties such as language barriers and ignorance about responsible institutions present almost insurmountable obstacles to market access, especially for small exporters. For example, only six printers are authorised to print the German recycling logo on packaging. Locating one of them may represent quite a challenge to a foreign exporter.

*Lack of market knowledge including cultural and language barriers.* Successful exporters generally work with an agent in the target country, who handles negotiations and logistics.<sup>22</sup> Service exports, moreover, will usually involve personal acquaintance and at least the rudiments of a relationship of trust. Where these factors are lacking, initiating new business relationships will be a particularly tough. In the service sector there is an additional problem of market exploration being dependent on the practice of visa issuance.

*Problems accessing export credit, or complete lack thereof.* Trade financing is an important instrument for bridging the high costs involved in opening up a market, especially because settlement by major retail chains is often associated with long delays: namely, following

receipt of goods. Experts regard applying for funds for example from the Caribbean Export Development Agency, as administratively time-consuming and bureaucratic.<sup>23</sup>

*Small countries and lack of local and regional value chains,* both of which impact negatively on economies of scale. Access to European food markets is controlled almost exclusively by supermarket chains, which are slow to accept new products and usually demand a constant supply of relatively large quantities. This makes entering the market fundamentally difficult for small producers.

*Reputation.* Given that small suppliers are more dependent on a reputation for reliability, Caribbean deficits in this area represent a problem, as one example described by a stakeholder illustrates. A caterer for an international airline had decided to purchase agricultural products in the Caribbean. But contrary to the terms of contract, the farmer failed to package the product and demanded a higher price – because the putative transaction had caused local prices to rise and the terms of the contract no longer appeared attractive. The deal fell through. The interviewee emphasised that where such small quantities were involved importers saw no reason to “put up with such trouble”.

*Established trade flows hinder new market relationships.* Old trade flows frequently persist even where better alternatives become available. Thus Guyana maintained its traditional bulk sugar exports to the United Kingdom and refrained from terminating the existing contract, even after the European Union funded a packaging plant as compensation for the expiry of the sugar protocol, which would have permitted greater domestic value creation.

*Positive contribution of foreign domestic investment.* European investment in the rum industry and in Guyanese shrimp processing contributed to increasing exports.<sup>24</sup> But interview partners from various fields shared the opinion that local and regional Caribbean businesses were frequently uninterested in opening up new markets, or at best only in their region.

*Aid for trade and EU cooperation with Caribbean institutions* play a positive role in promoting exports. The strong increase in rum exports from the Caribbean region, for example, stems from a drive to create a high-quality brand product that was supported by the

<sup>21</sup> Many interviewees mentioned that private standards were a matter of growing concern for Caribbean businesses; for example, the Global G.A.P. Standards for pesticides on bananas had negatively affected the region's exports.

<sup>22</sup> BKP Development Research & Consulting, *Identification and Assessment of the Underlying Reasons Affecting CARICOM'S Trade Performance under the Existing Bilateral Trade Agreements with the Dominican Republic, Costa Rica, Colombia, Cuba and Venezuela*, Final Report, 12 March 2014, viii. Interviewees confirmed the importance of such trust-based partnerships.

<sup>23</sup> Ibid.

<sup>24</sup> Singh et al., *Monitoring* (see note 9), 92.

European Union through aid for trade.<sup>25</sup> Interview partners also named other comparable projects (such as sauce export from St. Lucia in the scope of the GIZ programme for EPA implementation). One result of a successful institutional cooperation between the European Commission and the agriculture ministry of the Dominican Republic has been to reduce the rejection rate of oriental vegetables, which had previously found it hard to satisfy the SPS standards in the European Union.<sup>26</sup>

*International conditions.* The global economic and financial crisis had substantial negative effects, but trade flows are naturally affected by other policy fields too. Examples include:

- a) Market distortion through subsidies, including not only the consequences of the agricultural policies of the industrialised countries, but also negative effects of interventions such as US support for rum production in Puerto Rico.
- b) The unequal negotiating power of states in the international system. For example although Antigua and Barbuda won its WTO case over internet gambling, the United States refuses to implement the ruling and the country is too small to assert its rights through countervailing measures.<sup>27</sup>

<sup>25</sup> Organisation for Economic Cooperation and Development (OECD) and World Trade Organisation (WTO), *Caribbean Rum Sector Programme, Aid-for-Trade Case Study: Caribbean Community (CARICOM)* (Geneva, 2011). The rum sector was an obvious target for such support, because of its traditionally economic importance for Caribbean employment and GDP, via cane sugar production.

<sup>26</sup> Singh et al., *Monitoring* (see note 9), 92.

<sup>27</sup> Claude Robinson, "US-Antigua Trade Dispute Exposes Global Inequity", *Jamaica Observer* (online), 24 February 2013.

# The C-EPA as “Deep” Free Trade Agreement

## Services and Cultural Cooperation

The CARIFORUM EPA contains wide-ranging provisions concerning the service sector, which is of great economic importance in the Caribbean. In many of these countries tourism, especially, contributes more than 50 percent of GDP and employment,<sup>28</sup> but is subject to strong cyclical fluctuation. The global recession of 2007 revealed how vulnerable the sector is to external shocks. In this situation the CARIFORUM states were very interested in including services in the EPA.<sup>29</sup> The chapter on services includes all the so-called modes of supply (WTO classification) and numerous sectors. It is peppered with statements on the role of development cooperation and its contribution to supporting Caribbean exports and institutions, but without any specific detail on how such promotion is to be funded.

In the field of services, the C-EPA again provides for asymmetrical liberalisation. The European Union has opened up 94 percent of sectors, the middle-income CARICOM countries 75 percent, the CARICOM LDCs 65 percent, and the Dominican Republic 90 percent.<sup>30</sup> In the “commercial presence” (direct investment) and “cross-border supply of services” modes, however, the text merely replicates the status quo.<sup>31</sup> The chapter on financial services goes slightly further than GATS.<sup>32</sup> All in all, for the CARIFORUM countries the EPA largely confirms a pre-existing openness in the service sector.<sup>33</sup>

<sup>28</sup> Caribbean Community Secretariat, *Caribbean Community Regional Aid for Trade Strategy 2013–2015* (Georgetown, Guyana, February 2013), 31.

<sup>29</sup> Errol Humphrey, *CARIFORUM EPA Negotiations: Initial Reflections on the Outcome*, presentation to a DG Trade-organised workshop on the CARIFORUM-EC EPA, Brussels, 13 February 2008.

<sup>30</sup> Allyson Francis and Heidi Ullrich, “Analysis of Economic Partnership Agreements: Trade in Services, Case Study of the CARIFORUM-EU Agreement”, in *How to Ensure Development Friendly Economic Partnership Agreements – Lessons across Regions*, ed. Regine Qualmann (Eschborn, 2009), 69.

<sup>31</sup> Singh et al., *Monitoring* (see note 9), 43f.

<sup>32</sup> Francis and Ullrich, “Analysis” (see note 30), 74.

<sup>33</sup> Andrew Lang and Caitlin Conyers, *Financial Services in EU Trade Agreements*, Study for the ECON Committee, European Parliament, Directorate-General for Internal Policies, Policy Department A, IP/A/ECON/2014-08 (Brussels, November 2014), 10, 27.

In certain very specific areas the European Union has liberalised its market further than the multilateral framework (GATS), specifically opening the EU tourism sector to travel agencies, tour operators and tourist guides from the CARIFORUM states.<sup>34</sup> CARIFORUM claimed in particular the agreements on temporary supply of services by natural persons as a great success. The EU has opened its market, subject to certain conditions, to suppliers of selected services (for twenty-nine categories of contractual service provider for up to six months or one year, as well as for eleven categories of independent professional, including chefs, models, musicians, authors, artists and performers).<sup>35</sup> Article 85 of the EPA encourages professional organisations to prepare recommendations for mutual recognition of qualifications and to commence negotiations on the issue within three years. A memorandum of understanding has now been signed between the Architects’ Council of Europe and the architects of the CARIFORUM states, represented by three regional organisations, also with support through aid for trade.<sup>36</sup> The Caribbean organisations for engineers and accountants are currently still discussing harmonisation and mutual recognition of professional qualifications amongst themselves, before commencing negotiations with their EU counterparts.

The EPA’s passages on services also contain numerous references to aid for trade, for example in relation to technology transfer and information exchange. Many of the measures mentioned have been implemented since the agreement came into force.<sup>37</sup>

The field of cultural cooperation has its own protocol (III) in the C-EPA, where the partners have instituted a very innovative agreement and for the first time implemented the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 20 October 2005, whose Article 16 provides for preferential treatment of developing coun-

<sup>34</sup> Francis and Ullrich, “Analysis” (see note 30), 74.

<sup>35</sup> Silva, *Caribbean Trade Integration after the West Indian Commission* (see note 6).

<sup>36</sup> Singh et al., *Monitoring* (see note 9), 49.

<sup>37</sup> According to Singh et al., *Monitoring* (see note 9), more than five hundred businesses have participated in various programmes for the service sector.

tries. The protocol addresses the topics of exchange, training and cooperation, grants Caribbean artists and performers preferential temporary market access (see above), and institutes preferential treatment of audio-visual and cinematographic products via a definition of origin. Treating joint EU-CARIFORUM productions as “European works” within the European Union means not only that they are categorised as “European” in broadcasting quotas, but also that they enjoy access to European subsidies. Under this arrangement, the Caribbean partner is supposed to contribute between 20 and 80 percent of the film’s budget (Protocol III, Art. 5). A project to increase exports in the service sector funded by the Caribbean Development Bank (CDB) has already generated at least one film cooperation between Trinidad and Tobago and the French overseas department of Martinique, where a contract has already been signed.

Caribbean stakeholders attribute great importance to the protocol on cultural cooperation.<sup>38</sup> On the one hand, the region hopes to build on the opportunities generated by the positive connotations of Caribbean art and culture in Europe (music, fashion, film). On the other, competition in the creative sector is largely independent of considerations of price, while the very high costs of production inputs in the Caribbean are of less relevance in this sector. Nonetheless, it will be no easy matter to realise the economic potential attributed to the Caribbean culture industry. Its main problems are that political leaders often fail to recognise it as a serious economic factor, that those working in the sector have virtually no professional representation, and that there is no sectoral statistical data. The upshot is a neglect of culture in political decision-making.<sup>39</sup> One illustration of this was related by an interviewee: a prime minister had spoken disparagingly of an ensemble from his country as a “bunch of musicians”, only to learn that an international tour by the group had generated more foreign currency than the nation’s sugar exports. The culture ministry of Trinidad and Tobago has established a register of artists and performers to facilitate more active intervention in this sector.

With respect to the actual development of trade in services, the picture is similar to trade in goods. Be-

tween 2000 and 2008 CARIFORUM exports increased in central fields such as personal and cultural services and licensing revenues. The global recession then caused a decline until 2010, with a recovery occurring since.<sup>40</sup> While it cannot be proven that new trade flows have been generated explicitly by the C-EPA, investors see the agreement as a positive signal. A significant increase in investment has been registered in the Dominican Republic.<sup>41</sup>

Even if the chances offered by the EPA in the fields of services and cultural cooperation are highly valued in the Caribbean, there is a certain sense of disenchantment in view of the practical obstacles that continue to hinder market access. These include economic needs tests, contract requirements, professional experience requirements, and rules on duration of activity. Caribbean interview partners often pointed to the problems caused by very restrictive visa regulations, not only for service providers but also for other businesspeople wishing to explore markets. In some respects the EU member states appear to be in contravention at least of the spirit of the EPA here, if not also the letter,<sup>42</sup> sometimes probably simply through ignorance of the relevant CARIFORUM EPA rules in the agencies responsible for issuing visas. But it is in the service sector – that depends much more strongly on trust and personal contact than trade in goods, where a potential importer can examine a product – that the issue hits hardest. For example, the C-EPA opens up the European market for chef de cuisine services, but makes entry conditional upon already having a job within the European Union. Development cooperation can play an important role in bringing together suppliers and customers. It is likely to be especially difficult to overcome the information deficit concerning the EPA in the creative industries, where micro-businesses frequently exhibit a tendency to “avoid structures”,<sup>43</sup> making it very difficult to target them with information about the opportunities offered by the EPA. Here too, fundamentally, the chances offered by the agreement will remain fallow until individuals and institutions take up the issues and create forums for European-Caribbean cooperation.

<sup>38</sup> For further details, see: Keith Nurse, “The Economic Partnership Agreement and the Creative Sector: Implications and Prospects for CARIFORUM”, in *The CARIFORUM-EU Economic Partnership Agreement*, ed. Beviglia Zampetti and Lodge (see note 5), 147–62.

<sup>39</sup> Ibid., 160.

<sup>40</sup> Singh et al., *Monitoring* (see note 9), 102.

<sup>41</sup> Ibid.

<sup>42</sup> See examples in Singh et al., *Monitoring* (see note 9), 47.

<sup>43</sup> Errol Humphrey, *Implementing the Economic Partnership Agreement: Challenges and Bottlenecks in the CARIFORUM Region*, ECDPM Discussion Paper 117 (Maastricht: ECDPM, June 2011), 5.

## New Topics, Internal Reforms and Sustainability

As tariffs have fallen and lost their influence on international trade flows, other factors such as non-tariff and regulatory trade barriers have grown in importance. This is reflected not only in an expansion of the regulatory scope of the WTO and free trade agreements over the past twenty years, but also in economic research. New trade theory underlines the importance of transaction costs for export success.<sup>44</sup> Investment, public procurement, competition law and trade facilitation may be of great importance under the aspect of efficiency of state action and lowering transaction costs. Empirical research conducted in recent years has also demonstrated that trade liberalisation is most likely to lead to positive growth effects where it is associated with other reforms and measures such as investment in human capital, deepening financial markets, improvements to public infrastructure, a policy of lowering inflation,<sup>45</sup> and regulation of business and labour.<sup>46</sup> The British development economist Oliver Morrissey emphasises the general relevance of regulatory reform and strengthening institutions for lowering transaction costs.<sup>47</sup> His German colleague Matthias Busse also underlines the significance of competition policy,<sup>48</sup> which he argues is a precondition for consumers to benefit from price reductions.

In the EPA talks the negotiators from the Caribbean Regional Negotiating Machinery (CRNM), which the CARIFORUM states set up to negotiate collective free trade agreements, pushed hard for the inclusion of “new topics”, in the sense of “WTO+” issues. And numerous new topics are indeed addressed in the

agreement, although few legally enforceable obligations are defined (example are found in the areas of SPS, TBT, environment). In most cases statements are restricted to a deepening of information exchange and technology transfer, and development cooperation in general. CARIFORUM agreed to binding obligations on protection of intellectual property, including in relation to geographical indications. This was an important issue for the European Union (although implementation of this provision has yet to begin and is tied to development support).

Aspects of sustainability are comparatively firmly anchored in the C-EPA. Article 3 (“Sustainable development”) contains a commitment that “the application of this Agreement shall fully take into account the human, cultural, economic, social, health and environmental best interests of their respective population and of future generations”. Here the parties underline the equal status of the three dimensions of sustainability: economic, social and environmental. This formulation represents an important point of reference for implementing the agreement and for handling disagreements that may arise. A “single focus on economic elements”, of the kind found in traditional free trade agreements that pursue only the restricted objective of trade liberalisation “is no longer acceptable”.<sup>49</sup> The C-EPA contains provisions aiming directly at the introduction and observance of particular social and environmental standards. It also includes a commitment to the ILO’s core labour standards, whose observation is to be backed up and verified by a consultation mechanism. The agreement dedicates an entire chapter to environmental issues, and explicitly recognises the parties’ right to regulation. The environment chapter also refers to the need for a monitoring mechanism.

The impact of a free trade agreement naturally ensues very largely from its economic provisions. It is thus all the more important that the fundamental thrust of the CARIFORUM EPA serve sustainable development in the partner countries. This is clearly reflected in a series of elements within the agreement, where asymmetrical market opening takes account of the unequal starting conditions. A flexible, one-sided safeguard clause (Art. 25) permits the reintroduction of tariffs in the event of problematic increases in im-

<sup>44</sup> Evita Schmieg, *Theorie der Regionalen Integration – die EU und die Karibik*, Ph.D. diss., University of Leipzig, 2006.

<sup>45</sup> Roberto Chang, Linda Kaltani and Norman V. Loayza, “Openness Can Be Good for Growth: The Role of Policy Complementarities”, *Journal of Development Economics* 90 (2009): 33–49.

<sup>46</sup> Caroline Freund and Bineswaree Bolaky, “Trade, Regulations, and Income”, *Journal of Development Economics* 87 (2008): 309–21.

<sup>47</sup> Oliver Morrissey, “Conclusions: EPAs to Promote ACP Development”, in *Assessing Prospective Trade Policy*, ed. Oliver Morrissey (Abingdon, 2011), 223–34.

<sup>48</sup> Matthias Busse, “Revisiting the ACP-EU Economic Partnership Agreements – The Role of Complementary Trade and Investment Policies”, *Intereconomics* 45, no. 4 (2010): 249–54. Busse concludes that a particular level must be reached before trade liberalisation can promote development, and that liberalisation measures should be tied to progress on particular indicators.

<sup>49</sup> Americo Beviglia Zampetti, “Environment, Social Aspects and Institutional Provisions”, in *The CARIFORUM-EU Economic Partnership Agreement*, ed. Beviglia Zampetti and Lodge (see note 5), 179–98 (192).



ports. And governments are explicitly granted leeway to tighten laws and standards (Art. 191). Article 27 (4) provides an exception from the national treatment principle, by permitting subsidies to be paid exclusively to domestic producers and thus keeping open the possibility to pursue national economic policy goals. In the sphere of investment, the EPA applies a very innovative approach. Without additionally widening market access in the field of investment, several articles (Art. 72 [d], Art. 73, similarly Art. 193, Art. 188) oblige investors to observe sustainability.<sup>50</sup> Overall, the CARIFORUM EPA thus demonstrates as yet untested ways to address “new topics” in free trade agreements.

<sup>50</sup> For further detail, see: Evita Schmieg, *Human Rights and Sustainability in Free Trade Agreements: Can the Cariforum-EU Economic Partnership Agreement Serve as a Model?* SWP Comment 24/2014 (Berlin: Stiftung Wissenschaft und Politik, April 2014).

## Regional Integration and EPA – Foundation or Contradiction?

According to classical trade theory, regional integration is advantageous for a country when more new trade is generated than is diverted from third countries to regional partners; in other words, where – using the model of the Canadian free trade theorist Jacob Viner – trade creation is greater than trade diversion. In view of its historically low intensity of trade, the preconditions in the Caribbean are limited, even if intra-regional trade between CARIFORUM states has increased from 9.7 percent (1995) to 17.3 percent (2013).<sup>51</sup> Furthermore, most of the internal trade is conducted between a handful of countries: Jamaica is the biggest importer within CARICOM with approximately one third of intra-regional trade; Trinidad and Tobago accounts for more than half of the region's exports (largely oil and oil products).<sup>52</sup> The spatial approaches of new trade theory point to additional arguments for regional integration and underline the superiority of reciprocal market access over one-sided trade liberalisation. The principal difference to classical theory is the abandonment of unrealistic modelling assumptions. The new models acknowledge the existence of economies of scale and transaction costs, permit product differentiation, and recognise that countries differ in their starting situation and geographical position.<sup>53</sup>

### Institutional Aspects and Anchoring of Regional Integration in the EPA

Regional integration is not as a rule a purely economic project, but also a political one reflecting historical and cultural commonalities. In 1973 Caribbean states formed the Caribbean Common Market; the CARICOM Single Market and Economy (CSME) came into force in 2006 (without the Bahamas). But implementation of obligations ensuing from the decision to set up the CSME has been slow. By 2012, 64 percent of its provisions had been implemented (80 percent for goods,

fewer in the fields of services and mobility of capital and labour).<sup>54</sup>

The Spanish-speaking Dominican Republic is only associated with CARICOM through a free trade agreement signed in 1998, which the interviewed stakeholders in the region regarded as relatively unambitious because it covers just a small proportion of trade and has been implemented only slowly. Moreover, the further-going negotiations that had originally been planned on the topics of services, investment, public procurement and protection of intellectual property were not in fact pursued.<sup>55</sup> Growth in trade attributable to the agreement has to date been observed principally between Trinidad and Tobago and the Dominican Republic.

A regular cooperation between CARICOM and the Dominican Republic has existed since 1992 through the Caribbean Forum (CARIFORUM). The trigger for this came from the European Union, which made access to *regional* funding from the European Development Fund (EDF) conditional upon such cooperation. In the course of its efforts to support regional integration processes in the ACP states, the European Union had provided corresponding funds, including wide-ranging assistance for the private sector, channelled through the Caribbean Export Development Agency. It is thus development instruments that have over the past twenty years supplied the structure for regular dialogue and cooperation between CARICOM and the Dominican Republic. This cooperation forms the political basis for the free trade agreement between the Caribbean Community and the Dominican Republic. At the same time, CARIFORUM already supplied a framework for the Caribbean region's joint negotiations with the European Union over the Economic Partnership Agreement.

<sup>54</sup> Larry Placide, cited in Raphael John-Lall, "Trade Consultant: T&T Is Caricom's Most Open Economy", *Trinidad and Tobago Guardian* (online), 2 February 2012, <http://m.guardian.co.tt/business-guardian/2012-02-01/trade-consultant-tt-caricom%E2%80%99s-most-open-economy> (accessed 8 May 2015).

<sup>55</sup> Cf. Junior Lodge, "A Trade Partnership for Sustainable Development", in: *The CARIFORUM-EU Economic Partnership Agreement*, ed. Beviglia Zampetti and Lodge (see note 5), 19–42.

<sup>51</sup> Own calculations using data from UNCTADstat (see note 18).

<sup>52</sup> Ibid.

<sup>53</sup> Schmiege, *Theorie* (see note 44).

These talks were entrusted to the Caribbean Regional Negotiating Machinery, which had been founded in 1997 to represent CARIFORUM in negotiations with the United States about a Free Trade Area of the Americas and with the European Union about the EPA. The CRNM was an autonomous body of experts answerable directly to the heads of government. The construction reflected the high standing and great trust enjoyed by its first director-general, Sir Shridath Ramphal, among CARIFORUM members. To this day, the erstwhile members of the CRNM are highly respected as exceptionally qualified and committed figures with a vision for the region's future. But the governance structure of the CRNM limited its mandate. Even minor alterations to the CARIFORUM market access position, for example, had to be approved at the highest level.<sup>56</sup> The European Commission, on the other hand, was in quite a different position. As always in foreign trade negotiations, it was acting autonomously in the scope of a very broadly framed mandate and had only to consult the member states over fundamental departures. The CRNM, for its part, found itself negotiating in two directions: with the European Commission, and with its own regional heads of government, who had to be informed in detail about progress and needed convincing of the positions the CRNM intended to take. Members of government and former negotiators reported that the greatest challenge in the EPA talks had been intra-regional coordination, where governments in turn had to consult continuously with representatives of business and civil society to define their respective national negotiating positions. In this process they were supported by the CRNM, as especially in the smaller Caribbean states administrative capacities were very thin. Frequently just one single civil servant was responsible for all questions of market access, and sometimes the same person handled all questions relating to foreign trade.<sup>57</sup> Today outside observers and all involved regard the work of the CRNM as extremely successful, especially with respect to asserting Caribbean interests in the EPA with the European Union.

The CRNM saw the EPA talks as an opportunity to inject more dynamism into the sluggish progress of regional integration.<sup>58</sup> Here it was of central impor-

tance to preserve influence over the integration process and not to prejudice it through the talks.<sup>59</sup> This premise is visible at many points within the C-EPA: Article 1 names regional integration as one of the goals of the agreement; Article 4, which is dedicated specifically to the topic, begins with an affirmation of the importance of the process for the success of the EPA, but notes in paragraph 4 that “the pace and content of regional integration are matters to be determined exclusively by the CARIFORUM States”. The rest of the agreement also contains many references to the objective of promoting regional integration.

### Regional Preference in the EPA and Problems of Implementation

An absolutely central role in strengthening the regional integration process is played by Article 238, the regional preference clause, which states that any liberalisation towards the European Union must also apply between the CARIFORUM states. From the development perspective this is a minimum demand that avoids tariff reductions towards the European Union discriminating against partners in the region and diverting trade to the European Union.<sup>60</sup> The regional preference clause is de facto associated with additional liberalisation in the region, for the following three reasons:

- ▶ In certain respects, the C-EPA demands a further-reaching market opening than the CARICOM-Dominican Republic free trade agreement, including in services;
- ▶ The EPA for the first time draws the members of the Organisation of Eastern Caribbean States (OECS), which possess LDC status within CARICOM, into reciprocity, and demands a certain degree of market opening on their part too;
- ▶ The EPA includes the Bahamas in liberalisation for the first time. CRNM negotiator Junior Lodge points out that although the Bahamas is under no obligation to immediately apply the joint CARICOM external tariff, increasing intra-regional trade funda-

<sup>56</sup> Silva, “Mix Up Matrimony” (see note 11), 62.

<sup>57</sup> Ibid.

<sup>58</sup> Federico Alberto Cuello Camilo, “Realizing the Cotonou Blueprint through a Development-Enhancing Agreement”, in: *The CARIFORUM-EU Economic Partnership Agreement*, ed. Beviglia Zampetti and Lodge (see note 5), 11–18 (17).

<sup>59</sup> Lodge, “A Trade Partnership” (see note 55), 33.

<sup>60</sup> Schmieg, *Theorie* (see note 44), makes the more incisive proposal of defining an internal margin of preference: where negotiations with a third country or entity (such as the European Union) produced an outcome below the existing internal tariff (for example CARICOM) a further liberalisation within the free trade area would automatically follow.

mentally makes membership of the CSME increasingly attractive.<sup>61</sup>

Out of concern over possible consequences of regional market opening, above all with respect to imports from the Dominican Republic, which is regarded as more competitive, but to a lesser extent also from Trinidad and Tobago, the regional preference clause has yet to be implemented. This was addressed and discussed in December 2014 in the Trade and Development Committee, a monitoring body constituted under Article 230, but a solution has yet to be found.

Reservations against internal market opening are rooted in various concerns. Many countries, especially among the OECS states, already see themselves as insufficiently competitive to survive free trade in the CARICOM framework.<sup>62</sup> Interviews with private sector representatives, government officials and researchers revealed that there is the considerably less fear of competition from the European Union, which is much further away and less present in the market. This stance already represents a drag on internal CARICOM integration: where consensus decisions are required, the slowest sets the pace. Trinidad and Tobago and the Dominican Republic, on the other hand, regard liberalisation as an instrument for increasing competitiveness – an aspect that came up repeatedly in stakeholder interviews. Trinidad and Tobago has therefore applied for a partial suspension of the CARICOM external tariff, in order to be able to liberalise more strongly under the EPA and bilateral free trade agreements.<sup>63</sup>

Another reason for the halting reduction of tariffs within the region is concern over loss of customs revenues,<sup>64</sup> even if these exceed 1 percent of state

revenues in only three CARIFORUM states and the process is to be spread over a period of twenty-five years.<sup>65</sup> But dependency on duties leads to political decisions that have negative effects on trade flows and economic stability.<sup>66</sup> Some countries have begun reforming their tax systems to create alternative sources of revenue, mainly by introducing or increasing value added tax. In this they receive support above all from the Caribbean Regional Technical Assistance Centre of the IMF (CARTAC), whose contributors include the European Commission and Canada. It would be important for these reforms to be continued and the results implemented consistently, in order for regional integration to make progress.<sup>67</sup> Further intra-Caribbean trade liberalisation depends also on the smaller OECS states succeeding in reducing their dependency on customs revenues and thus separating trade from fiscal policy.

There are, however, good reasons to actually implement the regional preference clause. Firstly, the effects on local production would probably not be as severe as some governments fear; even without regional liberalisation (and thus not as a consequence of the EPA), CARICOM imports from the Dominican Republic almost doubled between 2007 and 2013. But at the same time CARICOM countries were able to increase their exports to the Dominican Republic,<sup>68</sup> which is already one of the most important trading partners of the

CARICOM because medical imports produce significant customs revenues.

<sup>65</sup> Sacha Silva cites three reasons for what might appear a surprisingly low figure: 1. The fact that no Caribbean state (apart from Suriname) receives more than 15 percent of its imports from the EU; 2. Incremental liberalisation and exceptions; 3. Declining importance of the EU as a trading partner in comparison to Asia and the United States. Silva, “Mix Up Matrimony” (see note 11), 69.

<sup>66</sup> One interviewee in Barbados complained that the introduction of a 70 percent duty on beer imports in St. Lucia – absolutely in accord with internal CARICOM rules – was forcing him out of the market. The original, perhaps positive, development-driven intention of protecting local production had, he said, been turned on its head because he, the beer exporter from Barbados, was a small local producer, while it was a multinational operating in St. Lucia. The decision to impose this particular tariff was reversed a few weeks later following bilateral inter-governmental talks.

<sup>67</sup> Interviewees reported that switching to tax-based revenue systems sometimes led to a fall in revenues, because intervention by lobby groups produced legislation containing numerous exemptions. In one case a low rate of value added tax was introduced on a trial basis, but the rate was not subsequently increased, nor was the additional revenue used to reduce tariffs.

<sup>68</sup> Singh et al., *Monitoring* (see note 9), 95.

<sup>61</sup> Lodge, “A Trade Partnership” (see note 55), 24.

<sup>62</sup> ECLAC points out that the CARICOM states have fixed very high multilateral tariffs for this reason: up to 100 percent for agricultural products, up to 50 percent for finished goods. These upper limits exceed the average bound tariffs of developing countries or the Caribbean market. ECLAC and Agence Française de Développement (AFD), *Development Paths in the Caribbean* (New York: United Nations, December 2012), 28, [www.afd.fr/webdav/shared/PORTAILS/PAYS/ALC/pdf/Etude-CEPALC-Development-paths.pdf](http://www.afd.fr/webdav/shared/PORTAILS/PAYS/ALC/pdf/Etude-CEPALC-Development-paths.pdf) (accessed 28 May 2015).

<sup>63</sup> Ibid., 29.

<sup>64</sup> The importance of the state revenue factor for protectionist measures was consistently apparent in discussions with Caribbean governments, regional institutions, businesses and academics. For example, it was mentioned that Trinidad and Tobago had proposed lowering the import duty on pharmaceutical products, despite itself being the only Caribbean country producing medicines. The idea was rejected within

Caribbean Community. At the same time the C-EPA takes account of existing sensitivities, in that most of domestic production in the OECS states and products that are sensitive under the aspect of state revenues are excluded from liberalisation anyway; also, almost all OECS imports from the Dominican Republic are non-agricultural. All the same, five thousand tariff lines in the OECS states are affected by the new market access granted to the Dominican Republic.<sup>69</sup> Their liberalisation would barely affect domestic production; the hesitation of governments to apply Article 238 is therefore a clear indication that at least a part of the tariff system continues to serve to secure state revenues.

As long as the regional preference clause is not in fact applied in full, there is also a danger of trade diversion benefiting the European Union,<sup>70</sup> an effect that is of course highly undesirable under the aspect of sustainable development in the region. At least in the scope of the common CARICOM market, the Caribbean states are seeking a further liberalisation in the region.<sup>71</sup> Introducing a new dynamic into implementation of the regional integration agenda through the C-EPA was, as already mentioned, specifically an important motivation of the CRNM negotiators.

Article 238 also plays an important role in the overall construction of the EPA. The Dominican Republic has taken upon itself a large part of the liberalisation towards the European Union, opening 95 percent of its market in goods (in terms of weighted tariff lines) and 90 percent of its service sector. This has considerable consequences for the overall structure of the agreement. On the one hand, it gives the CARICOM states the possibility to open their markets correspondingly less yet still reach the overall 80 percent target that the European Union regards as necessary under WTO rules. In the service sector for example, the more developed CARICOM states open 75 percent of their markets, the LDCs 65 percent. However CARICOM's overall smaller liberalisation concessions under

the EPA also limit the extent of their opening to the Dominican Republic. In return for its concessions to the European Union, the Dominican Republic was interested in a further opening of the CARICOM market to its exports, with the assistance of the regional integration clause. It also highly values the formal framework that the C-EPA offers for dialogue and cooperation with CARICOM, and especially also with Haiti, with which it shares an island and close economic ties. Non-implementation of Article 238 throws this entire construction out of balance.

### Effects of EPA Implementation on Regional Integration

In the C-EPA the participating Caribbean states agree, through the clauses described above, to deepen regional integration and to employ the institutional framework of the agreement to that end. As far as CARICOM cooperation with the Dominican Republic is concerned, the agreement is valuable to the extent that it offers a stable structure for regular meetings and a continuous dialogue. The EPA initiates cooperation processes in many areas that will advance regional cooperation. Support through development funds is foreseen.

At the level of functional cooperation, successes can already be identified, as demonstrated by the example of professional qualifications for architects.<sup>72</sup> Regional cooperation on technical barriers to trade is also promoted by the EPA. Harmonisation of technical standards by the CARICOM Regional Organisation for Standards and Quality (CROSQ) has certainly made progress, as have efforts to create a regional quality infrastructure with international recognition. Not least, the interviewed stakeholders also regarded cooperation between the CARICOM states and the Dominican Republic as positive, emphasising for example the signing of a memorandum of understanding between CROSQ and INDOCAL (Instituto Dominicano de Calidad). Those involved value the pragmatic, need-driven cooperation on technical questions.

But existing governance structures within the region are poorly suited to promoting the implementation of the EPA and resolving problems of regional economic integration extending beyond functional cooperation, in particular the challenges associated with Article 238.

<sup>72</sup> See the section on liberalisation of services, pp. 13ff.

<sup>69</sup> Silva, *Caribbean Trade Integration after the West Indian Commission* (see note 6), 19.

<sup>70</sup> Using an econometric model, Singh et al., *Monitoring* (see note 9), 95, identify a small trade diversion to the detriment of the CARIFORUM countries.

<sup>71</sup> See also Lodge, "A Trade Partnership" (see note 55), 19–42, who points out the consistency of Article 238 (regional preference clause) with the most-favoured treatment clause in Article 8 of the Revised Treaty of Chaguaramas of 2001, which provides for CARICOM to develop into a common internal market.

Although the CARICOM secretariat plays a role as a motor of integration, without the right of proposal it lacks an essential instrument. Consensus decision-making also hampers faster progress. But changes in this institutional setting would demand a certain renunciation of sovereignty. The UN Economic Commission for Latin America and the Caribbean believes that “an executive authority with powers to implement, question and propose” would be required to advance integration,<sup>73</sup> an opinion shared by several interview partners. Many interviewees in the region regard the situation as unsatisfactory and inefficient, but doubt that the political will exists within CARICOM to create the necessary governance structures.

The CARIFORUM secretariat is in the same situation with respect to EPA implementation and deepening cooperation between CARICOM and the Dominican Republic as the CARICOM secretariat in the question of further integration of the Caribbean Community. The CARIFORUM EPA Implementation Unit sees itself as a coordinator, but does not possess a mandate to actively drive EPA implementation and further regional integration. While its personnel is widely regarded as highly qualified and engaged, the secretariat as an institution is perceived as rather bureaucratic and slow, because all its decisions require consultation and approval of all member states.

Owen Arthur, former prime minister of Barbados, recently proposed setting up a new independent institution that would be better equipped to advance regional integration processes.<sup>74</sup> After conclusion of the EPA, the CRNM, which was able to operate much more independently during the talks, was confronted with accusations that it had operated too autonomously and that the agreed liberalisation went too far. It was subsequently restructured and integrated into the CARICOM secretariat as the Office of Trade Negotiations. In the process the connection to the Dominican Republic was lost, because it does not belong to the Caribbean Community. As a consequence, CARICOM and the Dominican Republic are now negotiating separately over free trade areas with Canada.

Many interviewees in the region regard the period of the EPA negotiations as the high-point of regional integration efforts. That is certainly also a reflection

of the extraordinary engagement of the CRNM. The positive attitude to integration has flowed into the EPA. In many areas the agreement promotes functional cooperation in the region, also between CARICOM and the Dominican Republic. The regional integration clause (Art. 238) creates great potential to advance trade integration in both goods and services. The existence of the EPA practically forces the participating Caribbean states into an ongoing dialogue and far-reaching coordination, with the EPA institutions providing the required framework.

Fundamentally therefore, the agreement can contribute to a deepening of integration. But scepticism has grown in the region as to whether this is actually wanted. Not only was the Dominican Republic's now third application to join CARICOM rejected in 2013, but the free trade talks with Canada are, as already mentioned, being conducted separately,<sup>75</sup> and the CARICOM processes of creating a CSME internal market are also proceeding at a crawl. Further integration will, however, depend on overcoming insular thinking and presupposes political will. Critical reflection here is certainly occurring in the region.

<sup>73</sup> ECLAC, *Development Paths* (see note 62), 30.

<sup>74</sup> See the video of Owen Arthur's speech of 19 January 2015, published by the Institute of International Relations, University of the West Indies, Trinidad and Tobago, [www.livestream.com/jiirtv/video?clipId=pla\\_cd7fdaae-0b7f-4721-a256-2afad34676b1](http://www.livestream.com/jiirtv/video?clipId=pla_cd7fdaae-0b7f-4721-a256-2afad34676b1) (accessed 17 June 2015).

<sup>75</sup> Ivan Ogando, former CARIFORUM secretary-general, comes to sceptical conclusions concerning the relationship between CARICOM and the Dominican Republic: “While the European regional development cooperation has played, plays and will play for the next few years, a key role in bringing CARICOM and DR together, today it is unlikely that CARIFORUM would survive without EDF support. A DR Membership in CARICOM is not eminent and, political rhetoric aside, it seems that both parties have not yet fully realised that they need to go beyond EU cooperation and learn to rely on their own efforts and initiatives to guarantee a sustainable and mutual beneficial relationship among themselves.”

## The Development Aspect in the C-EPA

According to the objective laid down in the Cotonou Agreement, the EPA is strongly characterised by a desire to promote sustainable development. This novel approach was of great interest to the CARIFORUM states.<sup>76</sup> Part I of the agreement describes how aspects of sustainable development are to be included in the agreement. Article 1 (a) names working to reduce poverty as the first objective of the agreement, even before regional integration (b) and trade and economic goals (c–f). This lays the basis for making the idea of development a cross-cutting theme throughout the agreement. Monitoring (Art. 5) is emphasised as an important instrument to ensure realisation of the stated intentions, as is development cooperation (Art. 7), whose priorities are also listed (Art. 8). The “Joint Declaration on Development Cooperation” annexed to the agreement also addresses the leitmotif of sustainable development. The idea that trade policy is not an end in itself, but must serve higher political goals such as fighting poverty, is thus firmly anchored in the agreement.

### Aid for Trade

Trade liberalisation does not automatically lead to growth and reduce poverty. It can only contribute to sustainable development under specific circumstances and with the appropriate arrangements. The principal challenges are:

- ▶ Lack of capacity for negotiating and implementing trade agreements in governments, administrations, parliaments and private sector, as well as in the civil societies accompanying the processes.
- ▶ Low competitiveness of goods and services; and lack of capacity in the private sector; and in connection with that, scant opportunity to use additional market access to actually increase exports.
- ▶ Deficits in trade-related infrastructure, including quality infrastructure.
- ▶ Weak capacity of states to facilitate adjustment processes, for example through incentives for restructuring,

turing, subsidisation of adjustment costs, and above all through social security.

Various donors supplied funds for implementation of the EPA. The European Parliament believes the € 580 million supplied (up to 2013) to be adequate to cover the most important priorities.<sup>77</sup> The European Union rejected the anchoring of additional development funding in the agreement originally sought by the Caribbean states (additionality) on the grounds that structures and negotiating mechanisms already existed in the field of development cooperation, in particular because significant EDF funds lay untapped during the funding period. On the other hand the “Joint Declaration” explicitly mentions adjustment needs in the CARIFORUM states and declares that € 165 million (until 2014) will be provided in the 10th European Development Fund, roughly a tripling of the previous figure.<sup>78</sup> The Joint Declaration also proposes the establishment of a “Regional Development Fund”. Implementation of most of the programmes did not begin until summer 2012, with the exception of the private sector development programme, which the Caribbean Export Development Agency has been running since March 2011. About one quarter of the funds foreseen have already flowed.<sup>79</sup>

Germany and the United Kingdom are the only EU member states contributing bilateral development cooperation to support EPA implementation. The German funding is highly regarded in the region. In 2007 Germany pledged € 5 million for this purpose: € 4 million through the Deutsche Gesellschaft für internationale Zusammenarbeit (GIZ), € 1 million through the Physikalisch-Technische Bundesanstalt (PTB) as implementing organisation for quality infrastructure. In 2015 the GIZ programme was increased by another € 1 million. While it is not planned to continue either programme beyond 2015, it is not impos-

<sup>76</sup> Lodge, “A Trade Partnership” (see note 55), 26.

<sup>77</sup> European Parliament, *The CARIFORUM-EU Economic Partnership Agreement (EPA): The Development Component* (Brussels, April 2009), 46.

<sup>78</sup> European Commission, *Information Paper CARIFORUM-EU* (see note 10), 21.

<sup>79</sup> For a detailed overview of ongoing development activities, see Singh et al., *Monitoring* (see note 9), 23ff.

sible that EPA implementation issues will be included under the existing development priority of energy.

The “Joint Declaration” on development cooperation, which is part of the C-EPA, includes a statement that “the funds allocated to the Caribbean Regional Indicative Programme (CRIP) in the 10th EDF are to be complemented by Aid for Trade contributions by Member States of the European Union”.<sup>80</sup> The CARIFORUM member states consequently expected support for EPA implementation to come from *all* EU member states, and there is great disappointment that this has not occurred. All the more clearly is it noted, as many interview partners underlined, that Germany has proven itself a credible and reliable partner through its rapid engagement in the region. Aside from the development sense of assisting the partners to implement the agreement, the intervention can also be regarded as diplomatically productive, especially in view of the many Caribbean votes in the UN system.

Aid for trade played a major role in creating and strengthening institutions during the talks, and above all after their conclusion. As well as CROSQ (via the PTB), the German EPA project largely supported the EPA units, coordinating offices set up under the agreement in all member states and at CARIFORUM. Germany for example funded the preparation of the regional “roadmap” for EPA implementation, as well as a number of national versions, websites to familiarise the public with the content of the agreement, information brochures for the private sector, regional workshops for information exchange between the countries, and a computerised implementation network within the region, the CAFEIN website, which especially smaller countries find very helpful. The discussions around the setting up of the EPA units and their establishment within the governments, and their actual activities, have contributed greatly to making the agreement better known and promoted the implementation process in some of the countries.

However, if the EPA units are to operate successfully, certain structural challenges will have to be tackled. One absolutely decisive question for their effectiveness is how these units are administratively configured and where they are organisationally attached. Certain EPA units are departments of their own, mostly located in trade ministries, some of them consisting of just a single person. They are reliant on

other administrative units to execute their proposals, without having any power over them. In this situation their success depends heavily on what reputation and political support the EPA unit enjoys. Barbados is a positive example. This type of organisation becomes problematic where other government departments are dealing with the implementation of other free trade agreements. Such a construction makes it difficult to shape a coherent external trade policy, because different units are ultimately all dealing with the same issues, and the implementation of FTAs demands identical legislative changes (for example customs liberalisation), affecting the same institutions (customs administration). Certain governments (Dominican Republic, Trinidad and Tobago, also Guyana) have therefore decided to implement the EPA through the existing structures of their trade departments, in order to ensure coherent executive action. Here development cooperation should avoid setting false incentives, such as tying financial support for implementation to the creation of new institutions. Although this has not explicitly occurred, several national administrations assumed such a connection, and the assumption favoured the decision to establish separate EPA units. Another condition for the units to operate successfully, which especially the smaller countries find hard to satisfy, is long-term security of resources and personnel.

The creation of a new regional fund is not yet under discussion, although exactly that intention is laid down in the “Joint Declaration”. The Caribbean countries may assume, probably justifiably, that a new fund would be no guarantee of new money but would certainly create additional administrative costs. Practical cooperation over implementation might also have demonstrated that articulated support needs can be met using existing instruments.

Alongside governments and administrations, private-sector capacities are an important issue for aid for trade. An agreement will only create new trade flows if actors in the private sector are aware of the new possibilities and interested in additional imports and exports. The participating governments are usually in contact with the private sector while trade negotiations are still under way, and in parallel seek dialogue with civil society, because small producers – who in some cases possess no organisation of their own – also need to be informed of the opportunities and risks of the agreement, given the opportunity to contribute their opinions, and be involved in a substantive exchange about possible effects. In this spirit the CRNM

<sup>80</sup> *Joint Declaration on Development Cooperation*, [http://trade.ec.europa.eu/doclib/docs/2008/february/tradoc\\_137971.pdf](http://trade.ec.europa.eu/doclib/docs/2008/february/tradoc_137971.pdf) (accessed 28 May 2015).



conducted numerous consultations with all stakeholders between 2004 and 2007, complementing member states' activities. The success of these activities was, however, limited.<sup>81</sup>

Other programmes aim directly to promote the private sector, in particular increasing competitiveness and exportability. For example, through the Caribbean Export development agency the European Union and Germany enabled Caribbean businesses to attend the Anuga food fair in Cologne and in the Berlin Fashion Week. These visits produced concrete export perspectives for a beer exporter, a sauce exporter, and for fashion companies.

Interviewees from the region repeatedly underlined the importance of a functioning quality infrastructure for product competitiveness and opening up foreign markets. Forty-eight chapters of the EPA relate to regional norms, making this area an important issue for aid for trade to address. The European Union has provided €7.8 million for improving quality infrastructure through the EDF in a project conducted by the Physikalisch-Technische Bundesanstalt (PTB) jointly with the Caribbean agencies CROSQ and INDOCAL. The EU and German quality infrastructure projects complement one another. While the EDF is more directed towards policy advice, the PTB supports the development of value chains and quality infrastructure services.

So to what extent can aid for trade actually help developing countries to make better use of the opportunities offered by free trade agreements? Theoretical studies attribute fundamentally good outcomes to aid for trade.<sup>82</sup> But a comprehensive evaluation of EU support for the Caribbean comes to a more differentiated conclusion: while EU resources were central to the success of the EPA talks, their success in improving the competitiveness of Caribbean businesses was patchy.<sup>83</sup> The businesses and representatives of national and regional organisations interviewed for this study repeatedly underlined the importance of practical support, both in view of stretched state budgets but above all also for communicating skills, knowledge and structured information about the German and European markets. Development cooperation is often important for setting processes in

motion,<sup>84</sup> and dialogue and cooperation initiated through development projects also frequently form the basis for later cooperation and business contacts. In this context the importance of development policy for aspects of regional cooperation and integration should not be underestimated; the establishment of the CARIFORUM secretariat and support for the Caribbean rum sector are especially pertinent examples. Resonance for German EPA support is also very positive. Many interviewees confirmed that German development aid channelled through the GIZ contributed centrally to making the EPA known in the institutions and private sectors of the Caribbean states (for example through a workshop with regional media, through the development of a strategy for advocacy work, and through the funding of brochures) and to increasing acceptance and interest in the private sector. As such it lent decisive support to the work of the CARIFORUM secretariat and to the responsible government departments. The ProNet training programme, which promotes capacity-building in the field of commerce, was singled out for very specifically addressing the needs of the private sector. The work of the PTB in setting up a quality infrastructure for fulfilling norms and standards received exceptional praise, because the deficits in this area are perceived as the central obstacle to Caribbean exports to the European Union and to regional trade. German development cooperation was especially popular, because it was said to be more partner-orientated and flexible than the European Union.

The interviewed stakeholders also expressed wishes and criticisms relating to the substance and processes of development cooperation in general (thus also of other donors and multilateral actors):

- ▶ The benefits of aid for trade should be distributed as widely as possible, they said. Where projects work with individual businesses, information and lessons learned need to be made broadly available, and participating businesses need to be fairly selected using objective criteria. Capacity problems and advice needs were also reported at the level of associations.
- ▶ Attention to broader impacts is pertinent when advising state instances, as one example of support through EPA units illustrates: It only took a few adaptations to make a brochure about the EPA

<sup>81</sup> Silva, "Mix Up Matrimony" (see note 11), 60.

<sup>82</sup> For example Ruth Hoekstra and Georg Koopmann, "Aid for Trade and the Liberalization of Trade", *Journal of World Trade* 46, no. 2 (2012): 327–66.

<sup>83</sup> Jean-Marie Burgaud et al., *Region Level Evaluation – Caribbean Region* (August 2012).

<sup>84</sup> One interviewee said that the region was "at a critical point. Some capacity has been created. Either you continue to push it or nothing will happen."

produced for Barbados usable for other countries too.

- ▶ There was great interest in structured, accessible information (websites, handbooks, brochures, etc.) about the German and European markets and their institutions (including chambers of commerce, associations, import institutions).
- ▶ A more strategic and longer-term approach to measures for strengthening competitiveness and identifying market opportunities would be desirable, interviewees said. The same also applies to the actual process of tapping new markets and all the accompanying steps along the value chain. As far as one-off activities such as workshops, trade fair participation, etc. are concerned, a certain weariness was discernible. Fragmentation of resources, sporadic availability of funds and fluctuating personnel were named as further problems in development cooperation. All this, it was said, made it harder to advance “enterprise development” in the long term.
- ▶ The PTB’s so-called CALIDENA approach (calidad = quality, cadena = chain) is a method for improving quality in all stages of the value chain. Partners praised the effects of this instrument, but also wished it went further. Building on the PTB consultation, companies could participate in trade fairs and then (via the GIZ) be assisted with follow-up and concrete marketing of their products. Cooperation with business organisations, chambers of commerce and the relatively new German Import Promotion Desk would also be conceivable in the scope of such development programmes.
- ▶ Requirements placed upon local partners must be realistic. Especially in smaller countries, interviewees said that there was already a lack of the capacities required to prepare project proposals. These are frequently developed by paid consultants, but where financial resources and capacities are especially stretched this may become an obstacle to accessing project funding at all. This problem is described in an evaluation of the UK-funded Caribbean Aid for Trade and Regional Integration Trust Fund (CARTFUND) by the International Centre for Trade and Sustainable Development (ICTSD). It turned out that the advisers CARTFUND provides to handle project proposals are crucial, since without them most proposals would have been rejected for falling short of stated quality

requirements.<sup>85</sup> Donors should consequently already be taking the situation of the recipients into account at the planning stage, in order to enable all potential target groups to access support. It was also mentioned that demanding partner contributions from micro-firms (for example in the agricultural sector) may be prohibitive for the existence of a project, if they have no access to funding.

- ▶ Result-orientation and cost-benefit analysis should be strengthened. In many projects the indicators for assessing the impact of EPA support are themselves, interviewees reported, too vague to actually measure success. But good indicators are a precondition for meaningful performance measurement.
- ▶ Not least, interviewees expressed a wish to maintain the German EPA support. It became clear that interest exists in cooperation per se, not just in the scope of development policy. Given that most of the Caribbean states are middle-income countries under the UN classification, international donors have largely pulled out of development cooperation with individual states. Such projects as are still there are generally operating at the regional level. In this context help in implementing the EPA is also regarded as a signal that Germany does in fact take note of the Caribbean countries, and is valued as German interest in the region.

## Monitoring and EPA Institutions

From the outset both the Caribbean side, including the Caribbean Policy Development Centre (CPDC) as the umbrella organisation of Caribbean NGOs,<sup>86</sup> and the EU member states,<sup>87</sup> demonstrated great interest in introducing innovative monitoring mechanisms. The idea was that close scrutiny of the implementation process would permit early detection of negative effects and appropriate counter-measures. Article 246, the revision clause, permits modification of the agreement on the basis of experience gained in the scope of implementation. The monitoring system itself is spelled out in Article 5. Although Germany had a com-

<sup>85</sup> Henry S. Gill, *Caribbean Aid for Trade and the Regional Integration Trust Fund (CARTFund)*, Policy Brief 4 (Geneva: ICTSD, May 2011), 3.

<sup>86</sup> Lodge, “A Trade Partnership” (see note 55), 35.

<sup>87</sup> Council of the European Union, *Economic Partnership Agreements – Conclusions of the Council and the Representatives of the Governments of the Member States Meeting within the Council*, 15109/07 (Brussels, 20 November 2007).

prehensive study prepared on this complex,<sup>88</sup> the discussion about the monitoring mechanism only really got going properly at the end of 2014, after its importance was reiterated in the EPA review and CARIFORUM responded to a much earlier proposal from the European Commission.

A series of institutions play important roles in implementing the agreement: The Joint CARIFORUM-EC Council, the highest organ at ministerial level (Art. 227), is supported by the Trade and Development Committee (TDC, Art. 230), which meets annually at senior official level. These institutions discuss all questions connected with the EPA, including problems with products incorrectly included in liberalisation and, in November 2014, the non-implementation of the regional integration clause (Art. 238). Stakeholders described the TDC as a well-functioning and adequate forum for handling implementation difficulties. The Parliamentary Committee (Art. 231) draws on the Lomé and Cotonou tradition of involving parliaments in such agreements.

The truly innovative institution, however, is the Consultative Committee (Art. 232), which is composed of representatives of civil society, academics, and the social and business partners, and is entitled to make recommendations to the EPA Council and the Trade and Development Committee. The Consultative Committee met for the first time at the end of 2014, after CARIFORUM required a great deal of time to appoint its delegates. The interviewed stakeholders welcomed its establishment and the associated possibility of influencing implementation, as well as ensuring that the EPA's objectives of social sustainability and poverty reduction are actually carried through. However, fears were also expressed that the Consultative Committee would have little impact if it met only once a year.

The Consultative Committee should play an important role in the emerging monitoring system. It is an extremely positive start to have an institution established within the EPA that represents all stakeholders and is thus in a good position to gather and pass on information about impacts and problems. The Consultative Committee could also be explicitly given such tasks as the monitoring procedure takes shape. As such, the members of the Consultative Committee could strengthen the connection to the societies of the

CARIFORUM partner states. At the same time, in the context of monitoring, a discussion in the various stakeholder circles would deepen knowledge about the agreement and thus contribute to strengthening capacities that are in turn required for constructive accompaniment of the agreement. However taking on such tasks would require more frequent meetings, better funding and possibly the formation of subcommittees.

<sup>88</sup> Michael Brüntrup et al., *Monitoring Economic Partnership Agreements: Inputs to the Negotiations and Beyond* (Bonn and Maastricht: DIE/ECDPM, 2008).

## Lessons from the CARIFORUM-EU EPA and Conclusions

### Contribution to Development and Poverty-reduction

The CARIFORUM-EU EPA is the first free trade agreement where the idea of sustainable development runs throughout its provisions. It satisfies the theoretical criteria that one would lay down for an agreement to serve poverty-reduction and sustainable development and promote regional integration:

**Real market access for developing countries:** With completely free market access, the C-EPA has created a precedent that developing countries can cite in free trade talks with other industrialised countries.

**Asymmetrical liberalisation:** The market opening instituted by the C-EPA is asymmetrical and takes account of the different levels of development of the partners. Whether the degree of opening is adequate to contribute to sustainable development will be seen in practice, and should be examined closely in the monitoring process.

**Safeguards and flexibility for developing countries:** The C-EPA contains an asymmetrical and unusually flexible safeguard clause and the possibility for the CARIFORUM region to adapt elements of the agreement should liberalisation create problems. The safeguards still have to demonstrate their effectiveness in the course of implementation.

**Review and monitoring:** The agreement itself specifies initial monitoring processes and contains innovative institutional mechanisms (above all the Consultative Committee) for following up implementation. The C-EPA is the first free trade agreement to provide for the establishment of a comprehensive monitoring system.

**Sustainability and development as cross-cutting themes:** Social and ecological issues are taken into account throughout the agreement.

**Integration of “new topics” in the service of sustainable development:** The C-EPA demonstrates new ways to introduce so-called WTO+ topics into a free trade agreement with the objective of contributing to sustainable development. Firstly, the Caribbean side only made substantive commitments where these were clearly in its own interests; whether the underlying assumptions were correct will again only become clear

in the course of implementation and monitoring. Secondly, commitments under the agreement are tied to the granting of aid for trade, where the necessary capacities are not yet present. Thus, for example, implementation of commitments on geographical indications is tied to support through development aid. Thirdly, wherever possible, the agreement has been configured in such a way as to strengthen the regional integration process. Fourthly, innovative arrangements are defined; for example, the chapter on investment contains duties concerning the behaviour of investors. Other chapters regulate, fifthly, cooperation, information exchange, technology transfer and development cooperation (for example technical barriers to trade and SPS), without demanding substantial commitments (for example expanded market access) in return.

**Consideration for regional integration agenda and contribution to integration:** The entire EPA and the mechanisms it defines, including the negotiations that created it, contribute to a deepening of cooperation and integration within the Caribbean region. The state of regional integration, which a number of interviewees certainly regarded as inadequate, determined the agenda of the talks at many points.

**Centrality of aid for trade:** Supporting the CRNM through external funding of highly qualified staff was of central importance in the negotiating phase. The agreement itself innovatively combines provisions on trade liberalisation, reforms and institution-building with an analysis of capacity bottlenecks and support through aid for trade.

All these elements can serve as a model for combining development angles with free trade objectives in negotiations over other agreements between developing and industrialised countries. But the innovative character of the C-EPA is heavily conditioned by the special historical relationship between the Caribbean and the European Union and the blueprint laid out in the Cotonou Agreement, which fundamentally stipu-

lated a development-led orientation.<sup>89</sup> The African and Pacific regions also negotiated EPAs with the European Union from the same starting situation. But for many other countries that context does not exist. Politically, the EPA is increasingly valued in the Caribbean, especially in light of the fate of free trade talks with other partners. The African countries should consider whether they do not wish to claim the possibilities that the C-EPA offers in certain areas – even without market access pledges – in the framework of the built-in agenda, which is also a part of their EPAs, which demands dialogue over new issues.

Another basic condition for what is regarded as the (very) positive outcome of the CARIFORUM-EU talks is not necessarily present elsewhere: the existence of leadership, ownership and an active interest in negotiating an agreement for the benefit of the region, which existed in the region at the time and all of which characterised the CRNM negotiators. They saw EPA as an opportunity to contribute incrementally to improving the productivity of Caribbean producers and advancing regional integration and diversification of its production and export structures. The successive loss of formerly extensive trade preferences for traditional exports such as sugar, bananas and rice is regretted, but agreement is there that a sustainable growth perspective must rest on new and different economic pillars.

That kind of perspective is not necessarily encountered in other regions, but it is nonetheless possible to draw generalisable lessons out of the negotiating and stakeholder processes. First of all, developing countries should not hesitate to draw on external support, even in the phase before and during negotiations, to clarify their own interests and positions. External support should be configured to ensure neutral advice and strengthen capacities *within the region* (where possible in the form of local experts). Secondly, it is important to involve stakeholders at an early stage in discussing and defining negotiating positions, as this will have a positive effect on the content and later acceptance of the agreement, and on interest in its implementation. External donors also have a contribution to make here.

<sup>89</sup> For an overview of the Cotonou Agreement, see Dietmar Nickel, *Was kommt nach Cotonou? Die Zukunft der Zusammenarbeit zwischen der EU und den Afrika-, Karibik- und Pazifikstaaten*, SWP-Studie 13/2012 (Berlin: Stiftung Wissenschaft und Politik, June 2012).

## Implementation: Maximise Opportunities, Minimise Risks

Even the best free trade agreement cannot guarantee new trade flows, poverty reduction and sustainable development. CARIFORUM stakeholders emphasised in interviews that their expectations of the C-EPA may have been too great. An agreement cannot do more than create a legal framework and institutional basis for processes that actors must initiate themselves: Governments must carry through reforms and private actors must also (be able to) make use of new market opportunities. Development aid can provide support, but the willingness to reform and the will to change must be present. A series of processes were initiated in the CARIFORUM member states to implement the agreement and modest new trade flows have appeared. To date, at the same time, there have been no market dislocations attributable to the liberalisation towards the European Union. One reason for this is that, in line with the asymmetrical construct of the agreement, CARIFORUM has so far only had to permit a very limited market opening, and even that has been partially delayed. But the interest European exporters have shown in the small Caribbean islands is also limited. It will not really be possible to draw conclusions about the effects of the agreement until the transitional periods have expired. But certain conclusions can still be drawn from the experience to date, both for ongoing C-EPA implementation and for free trade agreements with developing countries in general.

*Informing and involving stakeholders is central for ownership and impact.* Although much energy was devoted to stakeholder consultations, with numerous opportunities ongoing in the implementation phase, parts of the private sector feel they know nothing about the EPA and have nothing to do with it. Stakeholders must be involved in all phases of an agreement (preparation, negotiation, implementation). Adequate means shall be foreseen through aid for trade. An exchange of experience between African EPA regions and CARIFORUM at the regional and national levels could be helpful in preparing EPA implementation in Africa.

*Aid for trade is of great importance for realising trade opportunities.* The major objective of aid for trade programmes and projects is to initiate processes with longer-term effects. The interviewed stakeholders named the successive improvement of competitiveness of rum producers as an example of constructive European-Caribbean cooperation. Aid for trade goes

far beyond the provision of financial resources; it can also involve sharing of know-how that would not be available locally, or initiating processes of cooperation. Some lessons for development cooperation accompanying free trade agreements should be briefly highlighted:

- ▶ Prospective long-term support for improving productivity along the entire value chain must correlate with an adequate planning perspective and requires close cooperation between different specialised development institutions, the state and the private sector.
- ▶ The dissemination of experience from the projects must be integrated from the outset. Businesses and individuals participating in projects must be selected on the basis of fair criteria.
- ▶ Cost-benefit considerations and instruments for measuring success should flow more strongly into project design (this begins with the definition of impact assessment indicators).
- ▶ Capacities at all levels are important for implementing a regional agreement. Regional organisations frequently fulfil a coordination and control function, but a large part of implementation occurs at the national level (ratification, drafting and implementing legislation, dialogue with the private sector). Aid for trade measures must therefore address both and be so designed as to ensure from the outset a sensible division of labour and mutually complementary activities. Planning processes in development cooperation institutions must combine regional and national programmes, seeking constructive instrumental solutions and at least ensuring that the respective leaders remain in dialogue.

*Use the starting points the EPA offers for cooperation and exchange.* Many of the issues covered by the agreement can only be brought to life through dialogue, cooperation and exchange. If institutions and individuals fail to develop an interest and initiate processes, many chances will remain unused. The European Commission, the CARIFORUM secretariat, and the member states in both regions should consider which areas they are especially interested in and launch initiatives. The example of successful cooperation between the European Commission and the agriculture ministry of the Dominican Republic to resolve problems with SPS standards is encouraging. The possibilities of institutional cooperation, at the level of expert organisations such as CROSQ as well as ministries, are far from exhausted. The same applies to the private sector, with

the positive example of cooperation in the architecture sector.

*The EPA institutions and the nascent monitoring system should play a central role in implementation.* Positive effects of the agreement should be maximised, negative detected as early as possible and avoided. That requires first and foremost that the monitoring processes foreseen by the C-EPA actually be conducted. Then of course, there must be a willingness to draw consequences on the basis of the collated information. The task of the EPA institutions is to follow the research and discuss the results and any adjustments that may become necessary in the implementation process. The institutions offer the forum for dialogue and problem-solving. The effect of the Consultative Committee, for which there is no precedent in other agreements, is especially interesting. It should make full use of its broad mandate, especially with respect to keeping in focus the goals of poverty reduction and sustainable development set out in the agreement. In order for the Consultative Committee to be able to fulfil this task, it will be necessary to assign it a more active role and enable it to meet more frequently, in the interests of an ongoing and structured exchange.

The monitoring system should build on the institutional structures of the C-EPA. There is a great deal of experience with comparable monitoring processes, and for the C-EPA concepts are already available that should be taken into account in developing the mechanisms. In this connection transferring monitoring tasks to the Consultative Committee should also be considered. It would be gratifying if the Consultative Committee were to become an important link to the societies of the CARIFORUM countries. The committee could both gather its own information and serve as a multiplier in discussions. That would require it being given a clear mandate within the monitoring system, clear structures (for example as a regular working party) and the necessary funding for coordinating regional meetings, for national stakeholder participation and for such studies and information-gathering as may become necessary. In view of the heterogeneity of the actors represented on the Consultative Committee and what interviewed stakeholders regard as poor regional coordination to date, this would certainly represent a great challenge. A realistic assignment of tasks would need to be undertaken, not overstretching the Consultative Committee but creating incentives to intensify regional cooperation and exchange between the various stakeholders.

*Use the opportunities the C-EPA offers to promote regional integration.* Whether this succeeds will depend largely on political will in the region. Implementation of the regional preference clause is central. Should it to prove impossible to implement the clause in full, trade diversion benefiting the European Union should at least be avoided. While investigations of the effects of the regional liberalisation are already under way, certain consultation capacities and discussion processes will definitely be necessary to resolve existing problems. If necessary funding should be provided for this. The EPA institutions and above all the European Commission should actively encourage dialogue within the region.

Strengthening the mandate of the CARIFORUM secretariat in the context of EPA implementation could contribute to a simplification of processes and unleash a new dynamism. If the stakeholders are to be believed, national governments appear to express no great interest in this. This stands in contradiction to the broad awareness revealed in the interviews that in view of the small size of the CARICOM states in particular, integration and cooperation would be the best way to obtain greater economic and political weight. The possibility of expanding the capacity and mandate of the regional organisations or at least establishing a stronger regional division of labour (potentially on a case-by-case basis) to realise efficiency gains should be examined. This might at least be possible with regard to factual cooperation in specific areas or issues (such as aid for trade).

The question of possible trade diversion benefiting the European Union and how to avoid it by implementing a regional preference clause may arise in a similar form as soon as implementation begins in the African EPA regions. An early start should be made with analysis and developing solutions.

*Germany should continue to build on the reputation it enjoys in the region for its early engagement in EPA implementation.* This does not necessarily mean providing development cooperation funds, although it would make sense to examine to what extent aspects of EPA implementation could be integrated into the existing energy and environment priorities, if an extension of the EPA implementation project is not possible. The German government (including other ministries as well as the Federal Ministry of Economic Cooperation and Development that is responsible for the EPA) should also explore other areas where the EPA may touch on potential shared German/Caribbean interests that could be handled at government level and/or at

the level of associations or interest groups, with the objective of identifying concrete fields of cooperation. As well as environment and energy, the Protocol on Cultural Cooperation and other issues in the service sector also offer starting points.

*Successful implementation of a good agreement requires effort by all actors.* Completely free access to the EU market for exports of goods has again granted the Caribbean countries far-reaching trade preferences. The region is aware that this is only a temporary advantage, in view of the European Union's ongoing free trade talks with other regions. The opportunities offered by the EPA should therefore be grasped without delay. Nor will the goal of reducing poverty and strengthening sustainable development come about on its own, but will require an active approach by all stakeholders.

## Abbreviations

ACP	African, Caribbean and Pacific states
CAFEIN	CARIFORUM EPA Implementation Network
CAFTA	Central America Free Trade Agreement
CARICOM	Caribbean Community
CARIFORUM	Caribbean Forum of African, Caribbean and Pacific States
CARTAC	Caribbean Regional Technical Assistance Centre (of the IMF)
CARTFund	Caribbean Aid for Trade and Regional Integration Trust Fund
CDB	Caribbean Development Bank
C-EPA	Caribbean Economic Partnership Agreement
CPDC	Caribbean Policy Development Centre
CROSQ	CARICOM Regional Organisation for Standards and Quality
CRNM	Caribbean Regional Negotiating Machinery
CSME	CARICOM Single Market and Economy
DIE	Deutsches Institut für Entwicklungspolitik
ECDPM	European Centre for Development Policy Management (Maastricht)
ECLAC	Economic Commission for Latin America and the Caribbean
EDF	European Development Fund
EPA	Economic partnership agreement
FTA	Free trade agreement
GATS	General Agreement on Trade in Services
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
ICTSD	International Centre for Trade and Sustainable Development
ILO	International Labour Organisation
INDOCAL	Instituto Americano de Calidad
LDC	Least developed country
OECD	Organisation for Economic Cooperation and Development
OECS	Organisation of Eastern Caribbean States
PTB	Physikalisch-Technische Bundesanstalt
SPS	Sanitary and phytosanitary standards
TBT	Technical barriers to trade
TDC	Trade and Development Committee
WTO	World Trade Organisation